



Ogier acts for HSBC International Trustee Limited in an application for Beddoe relief

Cases - 19/06/2019

Ogier acted for HSBC in its role as the trustee of a Cayman Islands irrevocable discretionary trust in a Beddoe application concerning litigation brought against the trustee in Singapore by a beneficiary of the trust. The dispute arises against a backdrop of complex related litigation in Malaysia and Singapore involving (among others) probate, mental capacity, habeas corpus and commercial proceedings between the beneficiaries resulting in trust assets becoming frozen by the Malaysian court.

Ogier represented the trustee seeking both Beddoe relief and substantive declarations from the Cayman Court concerning the trust, by way of a rare Type 3 Public Trustee v Cooper application requiring a surrender of the trustee's discretion to the court. The Cayman proceedings engaged complex issues relating to conflict of laws, forum of administration clauses, the Cayman firewall provisions, and the enforceability of foreign judgments in Cayman. In an important decision for the Cayman Islands, the court analysed previous case law concerning the exclusive jurisdiction of the Cayman court and the public policy of the Cayman Islands as regards the enforceability of judgments from foreign courts concerning Cayman trusts. The case also involved the Cayman court, for the first time, being prepared, by way of a novel and practical approach in comity, to act as an auxiliary court to a foreign court in order to facilitate a mechanism whereby it would ensure that matters concerning a Cayman trust arising in foreign proceedings would be dealt with by the Cayman Court.

Acting for HSBC the Ogier team was led by partners Rachael Reynolds and William Jones who were assisted by counsel Deborah Barker-Roye, together with a team from Allen & Gledhill LLP in Singapore.

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